

Fred W. Schwinn (SBN 225575)
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San Jose, California 95113-2418
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Attorney for Plaintiff
CARLOS H. PEREZ

FILED
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RICHARD W. WIEKING
CLERK, U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE

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**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION**

CARLOS H. PEREZ,

Plaintiff,

v.

LAW OFFICES OF COLLINS AND
LAMORE, a general partnership; MICHAEL
WAYNE COLLINS, individually and in his
official capacity; ANDREW THOMAS
LAMORE, individually and in his official
capacity; and ALAN CRAIG SNYDER,
individually and in his official capacity,

Defendants.

Case No. **C V 10-05274**
COMPLAINT

HRL

DEMAND FOR JURY TRIAL

15 United States Code § 1692 *et seq.*

Plaintiff, CARLOS H. PEREZ, based on information and belief and investigation of counsel, except for those allegations which pertain to the named Plaintiff or his attorneys (which are alleged on personal knowledge), hereby makes the following allegations:

I. INTRODUCTION

1. This is an action for statutory damages, attorney fees and costs brought by an individual consumer for Defendants' violations of the Fair Debt Collection Practices Act, 15 U.S.C. § 1692, *et seq.* (hereinafter "FDCPA") which prohibits debt collectors from engaging in abusive, deceptive and unfair practices.

2. According to 15 U.S.C. § 1692:

a. There is abundant evidence of the use of abusive, deceptive, and unfair debt collection practices by many debt collectors. Abusive debt collection practices contribute to the number of personal bankruptcies, to marital instability, to the loss of jobs, and to invasions of individual privacy.

b. Existing laws and procedures for redressing these injuries are inadequate to protect consumers.

c. Means other than misrepresentation or other abusive debt collection practices are available for the effective collection of debts.

d. Abusive debt collection practices are carried on to a substantial extent in interstate commerce and through means and instrumentalities of such commerce. Even where abusive debt collection practices are purely intrastate in character, they nevertheless directly affect interstate commerce.

e. It is the purpose of this title to eliminate abusive debt collection practices by debt collectors, to insure that those debt collectors who refrain from using abusive debt collection practices are not competitively disadvantaged, and to promote consistent State action to protect consumers against debt collection abuses.

II. JURISDICTION

3. Jurisdiction of this Court arises under 15 U.S.C. § 1692k(d) and 28 U.S.C. § 1337. Declaratory relief is available pursuant to 28 U.S.C. §§ 2201 and 2202.

4. This action arises out of Defendants' violations of the Fair Debt Collection Practices Act, 15 U.S.C. § 1692, *et seq.* ("FDCPA").

/ / /

III. VENUE

5. Venue in this judicial district is proper pursuant to 28 U.S.C. § 1391(b), in that a substantial part of the events or omissions giving rise to the claim occurred in this judicial district. Venue is also proper in this judicial district pursuant to 15 U.S.C. § 1692k(d), in that Defendant transacts business in this judicial district and the violations of the FDCPA complained of occurred in this judicial district.

IV. INTRADISTRICT ASSIGNMENT

6. This lawsuit should be assigned to the San Jose Division of this Court because a substantial part of the events or omissions which gave rise to this lawsuit occurred in Santa Clara County.

V. PARTIES

7. Plaintiff, CARLOS H. PEREZ (hereinafter "Plaintiff"), is a natural person residing in Santa Clara County, California. Plaintiff is a "consumer" within the meaning of 15 U.S.C. § 1692a(3) and a "senior citizen" within the meaning of Cal. Civil Code § 1761(f).

8. Plaintiff is informed and believes, and thereon alleges that Defendant, LAW OFFICES OF COLLINS AND LAMORE (hereinafter "LAW OFFICES"), is or was at all relevant times, a general partnership engaged in the business of collecting debts in this state with its principal place of business located at: 92 Argonaut, Suite 200, Aliso Viejo, California 92656. LAW OFFICES may be served as follows: Law Offices of Collins & Lamore, c/o Michael Wayne Collins, General Partner, 92 Argonaut, Suite 200, Aliso Viejo, California 92656. The principal business of LAW OFFICES is the collection of debts using the mails and telephone, and LAW OFFICES regularly attempts to collect debts alleged to be due another. LAW OFFICES is a "debt collector" within the meaning of 15 U.S.C. § 1692a(6).

1 9. Defendant, MICHAEL WAYNE COLLINS (hereinafter "COLLINS"), is a natural
2 person and licensed attorney in the state of California. COLLINS is a general partner of LAW
3 OFFICES and may be served at his current business address at: Michael Wayne Collins, Law Offices
4 of Collins and Lamore, 92 Argonaut, Suite 200, Aliso Viejo, California 92656. COLLINS is a "debt
5 collector" within the meaning of 15 U.S.C. § 1692a(6).
6

7 10. Defendant, ANDREW THOMAS LAMORE (hereinafter "LAMORE"), is a
8 natural person and licensed attorney in the state of California. LAMORE is a general partner of LAW
9 OFFICES and may be served at his current business address at: Andrew Thomas Lamore, Law Offices
10 of Collins and Lamore, 92 Argonaut, Suite 200, Aliso Viejo, California 92656. LAMORE is a "debt
11 collector" within the meaning of 15 U.S.C. § 1692a(6).
12

13 11. Defendant, ALAN CRAIG SNYDER (hereinafter "SNYDER"), is a natural
14 person, a licensed attorney in the state of California, and is or was an employee, agent, and/or director
15 of LAW OFFICES at all relevant times. SNYDER may be served at his current business address at:
16 Alan Craig Snyder, Law Offices of Collins and Lamore, 92 Argonaut, Suite 200, Aliso Viejo,
17 California 92656. SNYDER is a "debt collector" within the meaning of 15 U.S.C. § 1692a(6).
18

19 12. At all times herein mentioned, each of the Defendants was an officer, director,
20 agent, servant, employee and/or joint venturer of his co-defendants, and each of them, and at all said
21 times, each Defendant was acting in the full course and scope of said office, directorship, agency,
22 service, employment and/or joint venture. Any reference hereafter to "Defendants" without further
23 qualification is meant by Plaintiff to refer to each Defendant, and all of them, named above.
24

25 VI. FACTUAL ALLEGATIONS

26 13. On a date or dates unknown to Plaintiff, Plaintiff is alleged to have incurred a
27 financial obligation, namely a consumer credit account issued by Discover Bank (hereinafter "the
28

1 alleged debt"). The alleged debt was incurred primarily for personal, family or household purposes and
2 is therefore a "debt" as that term is defined by 15 U.S.C. § 1692a(5).

3 14. Plaintiff is informed and believes, and thereon alleges, that sometime thereafter on
4 a date unknown to Plaintiff, the alleged debt was placed, assigned or otherwise transferred to
5 Defendants for collection from Plaintiff.
6

7 15. Thereafter, Defendants sent a collection letter (Exhibit "1") to Plaintiff which is a
8 "communication" in an attempt to collect a debt as that term is defined by 15 U.S.C. § 1692a(2).
9

10 16. The collection letter (Exhibit "1") is dated December 28, 2009.

11 17. The collection letter (Exhibit "1") was the first written communication from
12 Defendants to Plaintiff in connection with the collection of the debt.

13 18. A true and accurate copy of the collection letter from Defendants to Plaintiff is
14 attached hereto, marked Exhibit "1," and by this reference is incorporated herein.

15 19. On or about January 6, 2010, Plaintiff mailed a letter to Defendants which stated
16 in part:
17

18 With this letter I hereby request that you CEASE and DESIST any and all
19 efforts to collect on the above referenced account.

20 ***

21 Finally, please be advised that I am a Senior Citizen and any further
22 collection communications will cause me undue stress and anxiety. See
23 Cal Civil Code § 3345.

24 20. A true and accurate copy of Plaintiff's letter requesting that Defendants cease and
25 desist their efforts to collect the alleged debt is attached hereto, marked Exhibit "2," and by this
26 reference is incorporated herein.

27 21. Defendants received Plaintiff's letter requesting that Defendants cease and desist
28 their efforts to collect the debt (Exhibit "2") on or about January 8, 2010.

1 22. A true and accurate copy of the USPS Tracking Report and Certified Mail Return
2 Receipt evidencing Defendant's receipt of Plaintiff's letter requesting that Defendants cease and desist
3 their efforts to collect the debt (Exhibit "2") is attached hereto, marked Exhibit "3," and by this
4 reference is incorporated herein.

5 23. Thereafter, Defendants knew or should have known that their conduct was
6 directed towards a senior citizen.

7 24. On or about May 24, 2010, Defendants filed a lawsuit against Plaintiff in the
8 Superior Court of California, Santa Clara County captioned *Discover Bank v. Carlos Perez, et al.*, Case
9 No. 1-10-CV-172770 (hereinafter "the collection lawsuit").
10

11 25. On or about June 7, 2010, Plaintiff retained the legal services of Fred W. Schwinn
12 of the Consumer Law Center, Inc., to represent him in the collection lawsuit.
13

14 26. On or about June 7, 2010, Fred W. Schwinn sent COLLINS a Demand for Copy
15 of Items on Account (Exhibit "4") which notified COLLINS and his law partners that Plaintiff was
16 represented by Mr. Schwinn in the collection lawsuit.
17

18 27. A true and accurate copy of the Demand for Copy of Items on Account from Fred
19 W. Schwinn to Defendants is attached hereto, marked Exhibit "4," and by this reference is incorporated
20 herein.

21 28. On or about June 18, 2010, Defendants sent a letter to Fred W. Schwinn which
22 acknowledged Fred W. Schwinn's representation of Plaintiff in the collection lawsuit.
23

24 29. A true and accurate copy of the letter from Defendants to Fred W. Schwinn is
25 attached hereto, marked Exhibit "5," and by this reference is incorporated herein.

26 30. The letter (Exhibit "5") from Defendants to Fred W. Schwinn is dated June 18,
27 2010.
28

1 31. Plaintiff is informed and believes, and thereon alleges that Defendants had actual
2 knowledge that Plaintiff was represented by an attorney in the collection lawsuit on June 11, 2010.

3 32. Thereafter, Defendants sent a cover letter letter and discovery requests directly to
4 Plaintiff which is a "communication" in an attempt to collect a debt as that term is defined by 15 U.S.C.
5 § 1692a(2).
6

7 33. A true and accurate copy of the cover letter and Proof of Service from Defendants
8 to Plaintiff is attached hereto, marked Exhibit "6," and by this reference is incorporated herein.

9 34. The cover letter and Proof of Service (Exhibit "6") are both dated August 4, 2010.

10 35. Plaintiff is informed and believes, and thereon alleges that various documents in
11 Defendants possession on August 4, 2010, showed that Plaintiff had previously requested that he not be
12 contacted regarding Defendants attempts to collect the alleged debt and that Plaintiff was represented
13 by counsel in the collection lawsuit. Any professional review of Plaintiff's account or the documents in
14 Defendants' possession would have revealed that Plaintiff was represented by counsel and should not
15 be contacted directly.
16

17 36. The cover letter and Proof of Service (Exhibit "6") both bear the signature of
18 Defendant, SNYDER.
19

20 37. The cover letter and Proof of Service (Exhibit "6") both represented or implied
21 that Plaintiff's account had been reviewed by SNYDER.

22 38. Plaintiff is informed and believes, and thereon alleges, that SNYDER did not
23 conduct a professional review of Plaintiff's account before signing the cover letter and Proof of Service
24 (Exhibit "6") and sending it directly to the Plaintiff. *See Clomon v. Jackson*, 988 F.2d 1314 (2nd Cir.
25 1993) and *Avila v. Rubin*, 84 F.3d 222, 228-29 (7th Cir. 1996).
26

27 39. Plaintiff is informed and believes, and thereon alleges, that cover letter and Proof
28

1 of Service (Exhibit "6") misrepresented the role and involvement of legal counsel.

2 40. Plaintiff is informed and believes, and thereon alleges, that cover letter and Proof
3 of Service (Exhibit "6") misrepresented the true source or nature of the communication thereby making
4 false statements in an attempt to collect a debt.

5 41. Thereafter, on or about August 17, 2010, Defendants sent a cover letter and
6 discovery responses in the collection lawsuit to Fred W. Schwinn which acknowledged Fred W.
7 Schwinn's representation of Plaintiff in the collection lawsuit.

8 42. A true and accurate copy of the cover letter and Proof[s] of Service from
9 Defendants to Fred W. Schwinn is attached hereto, marked Exhibit "7," and by this reference is
10 incorporated herein.

11 43. The cover letter and both Proof[s] of Service (Exhibit "7") bear the signature of
12 Defendant, SNYDER.

13 44. Thereafter, Defendants sent a cover letter letter and Deposition Subpoena directly
14 to Plaintiff which is a "communication" in an attempt to collect a debt as that term is defined by 15
15 U.S.C. § 1692a(2).

16 45. A true and accurate copy of the cover letter from Defendants to Plaintiff is
17 attached hereto, marked Exhibit "8," and by this reference is incorporated herein.

18 46. The cover letter is dated August 31, 2010.

19 47. Plaintiff is informed and believes, and thereon alleges that various documents in
20 Defendants possession on August 31, 2010, showed that Plaintiff had previously requested that he not
21 be contacted regarding Defendants attempts to collect the alleged debt and that Plaintiff was
22 represented by counsel in the collection lawsuit. Any professional review of Plaintiff's account or the
23 documents in Defendants' possession would have revealed that Plaintiff was represented by counsel
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1 and should not be contacted directly.

2 48. The cover letter (Exhibit "8") bears a "/s/" purporting to be the signature of
3 Defendant, COLLINS.

4 49. The cover letter (Exhibit "8") and accompanying documents represented or
5 implied that Plaintiff's account had been reviewed by COLLINS.
6

7 50. Plaintiff is informed and believes, and thereon alleges, that COLLINS did not
8 conduct a professional review of Plaintiff's account before signing the cover letter (Exhibit "6")
9 accompanying documents and sending it directly to the Plaintiff. *See Clomon v. Jackson*, 988 F.2d
10 1314 (2nd Cir. 1993) and *Avila v. Rubin*, 84 F.3d 222, 228-29 (7th Cir. 1996).
11

12 51. Plaintiff is informed and believes, and thereon alleges, that cover letter (Exhibit
13 "8") misrepresented the role and involvement of legal counsel.

14 52. Plaintiff is informed and believes, and thereon alleges, that cover letter (Exhibit
15 "8") misrepresented the true source or nature of the communication thereby making false statements in
16 an attempt to collect a debt.
17

18 53. As a senior citizen subjected to Defendants' abusive, deceptive and unfair
19 collection practices, Plaintiff is entitled to treble damages pursuant to Cal. Civil Code § 3345.

20 VII. CLAIMS

21 **FAIR DEBT COLLECTION PRACTICES ACT**

22 54. Plaintiff brings the first claim for relief against Defendant under the Fair Debt
23 Collection Practices Act ("FDCPA"), 15 U.S.C. § 1692 *et seq.*
24

25 55. Plaintiff incorporates all paragraphs in this Complaint as though fully set forth
26 herein.

27 56. Plaintiff is a "consumer" as that term is defined by the FDCPA, 15 U.S.C. §
28

1 1692a(3).

2 57. Defendant, LAW OFFICES, is a "debt collector" as that term is defined by the
3 FDCPA, 15 U.S.C. § 1692a(6).

4 58. Defendant, COLLINS, is a "debt collector" as that term is defined by the FDCPA,
5 15 U.S.C. § 1692a(6).

6 59. Defendant, LAMORE, is a "debt collector" as that term is defined by the FDCPA,
7 15 U.S.C. § 1692a(6).

8 60. Defendant, SNYDER, is a "debt collector" as that term is defined by the FDCPA,
9 15 U.S.C. § 1692a(6).

10 61. The financial obligation alleged to be owed by Plaintiff is a "debt" as that term is
11 defined by the FDCPA, 15 U.S.C. § 1692a(5).

12 62. Defendants have violated the FDCPA. The violations include, but are not limited
13 to, the following:

14 a. Defendants continued to communicate directly with Plaintiff regarding the
15 collection of the alleged debt after Defendants knew that Plaintiff was represented by an
16 attorney with respect to the alleged debt, in violation of 15 U.S.C. § 1692c(a)(2);

17 b. Defendants continued to communicate directly with Plaintiff in an attempt
18 to collect the alleged debt, after receiving written notification that Plaintiff did not want any
19 further contact, in violation of 15 U.S.C. § 1692c(c);

20 c. Defendants falsely represented or implied that attorneys SNYDER and
21 COLLINS had reviewed Plaintiff's account when they had not done so, in violation of 15
22 U.S.C. §§ 1692e(3) and 1692e(10);

23 d. Defendants falsely represented the role and involvement of legal counsel, in
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1 violation of 15 U.S.C. §§ 1692e(3) and 1692e(10); and

2 e. Defendants misrepresented the true source or nature of the collection
3 communications, in violation of 15 U.S.C. §§ 1692e, 1692e(3) and 1692e(10).

4 63. Defendants' acts as described above were done intentionally with the purpose of
5 coercing Plaintiff to pay the alleged debt.

6 64. As a result of Defendants' violations of the FDCPA, Plaintiff is entitled to an
7 award of statutory damages, costs and reasonable attorneys fees, pursuant to 15 U.S.C. § 1692k.
8

9 **VIII. REQUEST FOR RELIEF**

10 Plaintiff requests that this Court:

- 11 a) Assume jurisdiction in this proceeding;
- 12 b) Declare that Defendants violated the Fair Debt Collection Practices Act, 15 U.S.C. §§
13 1692c(a)(2), 1692c(c), 1692e, 1692e(3) and 1692e(10);
- 14 c) Award Plaintiff statutory damages in an amount not exceeding \$1,000, pursuant to 15
15 U.S.C. § 1692k(a)(2)(A);
- 16 d) Award Plaintiff the costs of this action and reasonable attorneys fees pursuant to 15
17 U.S.C. § 1692k(a)(3);
- 18 e) Award Plaintiff treble damages pursuant to Cal. Civil Code § 3345; and
- 19 f) Award Plaintiff such other and further relief as may be just and proper.

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CONSUMER LAW CENTER, INC.

By: /s/ Fred W. Schwinn
Fred W. Schwinn (SBN 225575)
CONSUMER LAW CENTER, INC.
12 South First Street, Suite 1014
San Jose, California 95113-2418
Telephone Number: (408) 294-6100
Facsimile Number: (408) 294-6190
Email Address: fred.schwinn@sjconsumerlaw.com

Attorney for Plaintiff
CARLOS H. PEREZ

CERTIFICATION PURSUANT TO CIVIL L.R. 3-16

Pursuant to Civil L.R. 3-16, the undersigned certifies that as of this date, other than the named parties, there is no such interest to report.

/s/ Fred W. Schwinn
Fred W. Schwinn, Esq.

DEMAND FOR JURY TRIAL

PLEASE TAKE NOTICE that Plaintiff, CARLOS H. PEREZ, hereby demands a trial by jury of all triable issues of fact in the above-captioned case.

/s/ Fred W. Schwinn
Fred W. Schwinn, Esq.

Law Offices of Collins & Lamore
Attorneys At Law
23276 South Pointe, Suite 215
Laguna Hills, CA 92653
949-581-9300; Fax# 480-287-8507

December 28, 2009

Personal & Confidential to:

CARLOS H PEREZ
551 LOUMENA LN
SAN JOSE, CA 95111-2246

Re: Past Due Account; Our File# 57314
RE: DISCOVER BANK;
Original Account#: 6011000951399975

Dear CARLOS H PEREZ,

Please be advised that this office has been retained by the above referenced client in regard to your outstanding balance due in the amount of \$14,044.85. Please make all payments directly to this office and made payable to "Collins Lamore Trust Account".

I am, of course, willing to discuss the above with you. Please feel free to call me toll free at 1-800-864-1773 Ext. 1001 or email me at staffattyl@collinslamorelaw.com.

Sincerely,


Mark H. Shafer, Esq.

FDCPA Notice: Unless you notify this office within thirty (30) days of receiving this notice that you dispute the validity of this debt or any portion thereof, this office will assume this debt is valid. If you notify this office in writing within thirty (30) days from receiving this notice, this office will: obtain verification of the debt or obtain a copy of a judgment and mail you a copy of such judgment or verification. If you request this office in writing within thirty (30) days after receiving this letter, this office will provide you with the name and address of the original creditor, if different from the current creditor. This is an attempt to collect a debt. Any information obtained will be used for that purpose.

RFDCPA Notice: "The state Rosenthal Fair Debt Collection Practices Act and the federal Fair Debt Collection Act require that, except under unusual circumstances, collectors may not contact you before 8 a.m. or after 9 p.m. They may not harass you by using threats of violence or arrest or by using obscene language. Collectors may not use false or misleading statements or call you at work if they know or have reason to know that you may not receive personal calls at work. For the most part, collectors may not tell another person, other than your attorney or spouse, about your debt. Collectors may contact another person to confirm your location or enforce a judgment. For more information about debt collection activities, you may contact the Federal Trade Commission at 1-877-FTC-HELP or www.ftc.gov."



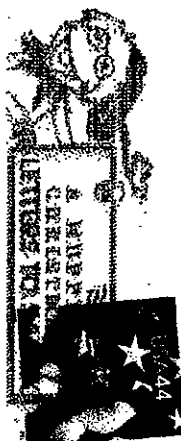
Personal & Confidential to:
CARLOS H PEREZ
551 LOUMENA LN
SAN JOSE, CA 95111-2246

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UNITED STATES DEPARTMENT OF JUSTICE

39 DEC 2007 11



CEASE AND DESIST LETTERLAW OFFICES OF COLLINS & LAMORE

Collection Agency's Name

23276 South Pointe Suite 215

Collection Agency's Address

LAGUNA HILLS CA 92653CERTIFIED MAIL
RETURN RECEIPT REQUESTED01-05-2010

Today's Date

7008 1140 0002 7173 0663

Tracking Number

Re: Account No. 6011000951 399975

Dear Sir or Madam:

With this letter I hereby request that you CEASE and DESIST any and all efforts to collect on the above referenced account. I have attached a copy of your most recent correspondence for your reference.

You are hereby instructed to cease all collection efforts immediately or face legal sanctions under the Federal Fair Debt Collection Practices Act, 15 U.S.C. § 1692c(c) and/or the Rosenthal Fair Debt Collection Practices Act, California Civil Code § 1788.17.

Until advised otherwise, you should mark this account as "disputed," pursuant to 15 U.S.C. § 1692e(8).

Finally, please be advised that I am a senior citizen and any further collection communications will cause me undue stress and anxiety. See Cal Civil Code § 3345.

PLEASE MARK YOUR FILES ACCORDINGLY.

Trusting in your good offices, I remain ...

Very Truly Yours,

Carlos Perez

Sign your name here

Carlos Perez

Print your name here

551 LOUMENA LN

Print your address here

SAN JOSE CA 95111

EXHIBIT

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U.S. Postal Service™	
CERTIFIED MAIL™ RECEIPT	
(Domestic Mail Only; No Insurance Coverage Provided)	
For delivery information visit our website at www.usps.com	
OFFICIAL USE	
Postage	\$ 40.44
Certified Fee	\$ 2.80
Return Receipt Fee (Endorsement Required)	\$ 2.30
Restricted Delivery Fee (Endorsement Required)	\$ 0.00
Total Postage & Fees	\$ 45.54
0012 04 Postmark Here	
01/06/2010	
Sent To <u>LAW OFFICES OF COLLINS & LAMORE</u>	
Street, Apt. No., or PO Box No. <u>23276 South Pointe Suite 215</u>	
City, State, ZIP+4 <u>LAGUNA HILLS CA 92653</u>	
PS Form 3800, August 2006 See Reverse for Instructions	

Law Offices of Collins & Lamore
Attorneys At Law
23276 South Pointe, Suite 215
Laguna Hills, CA 92653
949-581-9300; Fax# 480-287-8507

December 28, 2009

Personal & Confidential to:

CARLOS H PEREZ
551 LOUMENA LN
SAN JOSE, CA 95111-2246

Re: Past Due Account; Our File# 57314
RE: DISCOVER BANK;
Original Account#: 6011000951399975

Dear CARLOS H PEREZ,

Please be advised that this office has been retained by the above referenced client in regard to your outstanding balance due in the amount of \$14,044.85. Please make all payments directly to this office and made payable to "Collins Lamore Trust Account".

I am, of course, willing to discuss the above with you. Please feel free to call me toll free at 1-800-864-1773 Ext. 1001 or email me at staffattyl@collinslamorelaw.com.

Sincerely,


Mark H. Shafer, Esq.

FDCPA Notice: Unless you notify this office within thirty (30) days of receiving this notice that you dispute the validity of this debt or any portion thereof, this office will assume this debt is valid. If you notify this office in writing within thirty (30) days from receiving this notice, this office will: obtain verification of the debt or obtain a copy of a judgment and mail you a copy of such judgment or verification. If you request this office in writing within thirty (30) days after receiving this letter, this office will provide you with the name and address of the original creditor, if different from the current creditor. This is an attempt to collect a debt. Any information obtained will be used for that purpose.

RFDCPA Notice: "The state Rosenthal Fair Debt Collection Practices Act and the federal Fair Debt Collection Act require that, except under unusual circumstances, collectors may not contact you before 8 a.m. or after 9 p.m. They may not harass you by using threats of violence or arrest or by using obscene language. Collectors may not use false or misleading statements or call you at work if they know or have reason to know that you may not receive personal calls at work. For the most part, collectors may not tell another person, other than your attorney or spouse, about your debt. Collectors may contact another person to confirm your location or enforce a judgment. For more information about debt collection activities, you may contact the Federal Trade Commission at 1-877-FTC-HELP or www.ftc.gov."


[Home](#) | [Help](#) | [Sign In](#)
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[FAQs](#)

Track & Confirm

Search Results

Label/Receipt Number: 7008 1140 0002 7173 0663

Expected Delivery Date: January 8, 2010

Class: **First-Class Mail®**Service(s): **Certified Mail™****Return Receipt**Status: **Delivered**

Your item was delivered at 11:39 am on January 08, 2010 in LAGUNA HILLS, CA 92653.

Information on this item has been restored from offline files and will be available online for 30 days from 11/15/2010.

Detailed Results:

- **Delivered, January 08, 2010, 11:39 am, LAGUNA HILLS, CA 92653**
- **Acceptance, January 06, 2010, 4:54 pm, SAN JOSE, CA 95113**

Track & Confirm

Enter Label/Receipt Number.

Go >

EXHIBIT

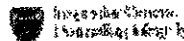
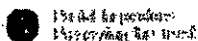
3

[Site Map](#)
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[Forms](#)
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[Business Customer Gateway](#)

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No FEAR Act EEO Data

FOIA



SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece or on the front if space permits.

1. Article Addressed to:

LAW OFFICES OF
COLLINS & LAMORE
28276 SOUTH POINTE
SUITE 215
LAGUNA HILLS CA
92653

COMPLETE THIS SECTION ON DELIVERY

A. Signature

X

☐ Agent☐ Addressee

B. Received by (Printed Name)

Hayley Nelson

C. Date of Delivery

1-8-10

D. Is delivery address different from item 1? ☐ Yes

If YES, enter delivery address below: ☐ No

3. Service Type

☒ Certified Mail☐ Express Mail☐ Registered☐ Return Receipt for Merchandise☐ Insured Mail☐ C.O.D.

4. Restricted Delivery? (Extra Fee)

☐ Yes

2. Article Number

(Transfer from service label)

7008 1140 0002 7173 0663

PS Form 3811, February 2004

Domestic Return Receipt

102595-02-M-1540

Fred W. Schwinn (SBN 225575)
 CONSUMER LAW CENTER, INC.
 12 South First Street, Suite 1014
 San Jose, California 95113-2418
 Telephone Number: (408) 294-6100
 Facsimile Number: (408) 294-6190
 Email Address: fred.schwinn@sjconsumerlaw.com

Attorney for Defendant
 CARLOS PEREZ

SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF SANTA CLARA

DISCOVER BANK,

Plaintiff,

v.

CARLOS PEREZ, *et al.*,

Defendants.

Case No. 1-10-CV-172770
 (Limited Civil Case)

**DEMAND FOR COPY OF
 ITEMS OF ACCOUNT**

Pursuant to C.C.P. § 454

To: DISCOVER BANK, and its attorney, Michael W. Collins.

Demand is hereby made that you deliver to the undersigned, within ten (10) days hereof, a copy of the account referred to in your Complaint for Common Counts, on file herein. This demand is made pursuant to Section 454 of the California Code of Civil Procedure.

CONSUMER LAW CENTER, INC.

Dated: June 7, 2010

By: 

Fred W. Schwinn, Esq.
 Attorney for Defendant
 CARLOS PEREZ



PROOF OF SERVICE BY MAIL
(C.C.P. 1013a, 2015.5)

I am employed in the County of Santa Clara, State of California. I am over the age of 18 years and not a party to the within action. My business address is Consumer Law Center, Inc., 12 South First Street, Suite 1014, San Jose, California 95113-2418.

On the date set forth below, I served the foregoing document described as:

DEMAND FOR COPY OF ITEMS OF ACCOUNT

on all other parties and/or their attorney(s) of record to this action by placing a true copy thereof in a sealed envelope as follows:

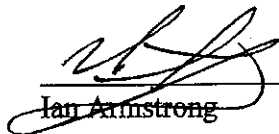
Michael W. Collins
Law Offices of Collins and Lamore
92 Argonaut Street, Suite 200
Aliso Viejo, CA 92656

Attorney for Plaintiff
DISCOVER BANK

I am readily familiar with the firm's business practices for collection and processing of correspondence for mailing with the United States Postal Service. The address(es) shown above is (are) the same as shown on the envelope. The envelope was placed for deposit in the United States Postal Service at Consumer Law Center, Inc., in San Jose, California. The envelope was sealed and placed for collection and mailing with first-class postage on the below date following ordinary business practices.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct to the best of my knowledge.

Executed on June 7, 2010, at San Jose, California.


Ian Armstrong

Law Offices of Collins & Lamore
Attorneys At Law
92 Argonaut #200
Aliso Viejo, CA 92656
Phone: 949-581-9300 Fax: 480-287-8507

June 18, 2010

Personal & Confidential To:
Fred W. Schwimm, Esq.
Consumer Law Center, Inc.
12 South First Street, Suite 1014
San Jose, CA 95113-2418

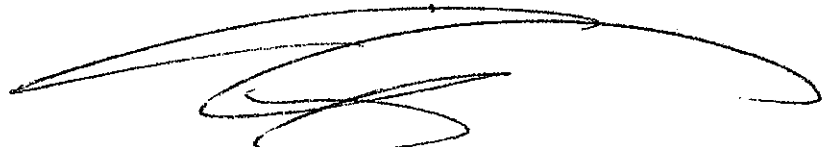
Re: DISCOVER BANK v. CARLOS PEREZ
Case #: 110CV172770
Our File# 57314

Dear Sir/Madam,

Find enclosed Response to Demand for Copy of Items of Account in the above referenced matter.

If you need anything further or wish to discuss this matter, please feel free to call me at 1-800-864-1773.

Sincerely,



Timothy J Gibbs, Esq.



**Notice: This is a communication from a debt collector and an attempt to collect a debt.
Any information obtained will be used for that purpose.**

Law Offices of Collins & Lamore
Attorneys At Law
92 Argonaut #200
Aliso Viejo, CA 92656
949-581-9300; Fax# 480-287-8507

August 4, 2010

Personal & Confidential To:

CARLOS PEREZ
551 LOUMENA LN
SAN JOSE CA 95111

RE: DISCOVER BANK
Our File# 57314; Ref #: 6011000951399975

CARLOS PEREZ,

Find enclosed discovery propounded by our office in the above referenced matter.

If you have any questions, please feel free to give me a call toll free at 1-800-864-1773 or email me at alan@collinslamorelaw.com.

Sincerely,


Alan C. Snyder
CSB# 192237

**THIS IS A COMMUNICATION FROM A DEBT COLLECTOR AND AN ATTEMPT TO
COLLECT A DEBT. ANY INFORMATION
OBTAINED WILL BE USED FOR THAT PURPOSE.**



PROOF OF SERVICE

1 STATE OF CALIFORNIA)
 2 COUNTY OF ORANGE)
 3 _____)

4 I am employed in the County of Orange, State of
 5 California. I am over the age of 18 and not a party to the
 6 within action; my business address is; 92 Argonaut #200, Aliso
 7 Viejo, CA 92656.

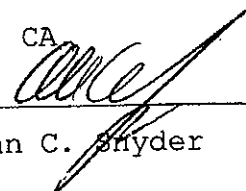
8 On August 4, 2010, I served the foregoing document
 9 described as **REQUEST FOR ADMISSIONS AND FORM INTERROGATORIES-**
 10 **GENERAL** on interested parties in this action by placing a true
 11 copy thereof enclosed in a sealed envelope and addressed as
 12 follows:

12 CARLOS PEREZ
 13 551 LOUMENA LN
 14 SAN JOSE CA 95111

15 I am "readily familiar" with the firm's practice of
 16 collection and processing correspondence for mailing. Under
 17 that practice it would have been deposited with U. S. postal
 18 service on that same day with postage herein fully prepaid at
 19 Aliso Viejo, California in the ordinary course of business. I
 20 am aware that on motion of the party served, service is presumed
 21 invalid if postal cancellation date or postage meter date is
 22 more than one day after date of deposit for mailing an
 23 affidavit.

24 I declare under penalty of perjury of the laws of the State
 25 of California that the foregoing is true and correct.

Executed on August 4, 2010, at Aliso Viejo, CA


 Alan C. Snyder

Law Offices of Collins and Lamore
92 Argonaut, Suite 200
Aliso Viejo, CA 92656

Personal & Confidential To:
CARLOS PEREZ
551 LOUMENA LN
SAN JOSE CA 95111

800028.05



\$1.220
US POSTAGE
FIRST-CLASS
06230007457763
92653

Law Offices of Collins & Lamore
Attorneys At Law
92 Argonaut #200
Aliso Viejo, CA 92656
Phone: 949-581-9300 Fax: 480-287-8507

August 17, 2010

Personal & Confidential To:

Fred W. Schwinn, Esq.
Consumer Law Center, Inc.
12 South First Street, Ste. 1014
San Jose, CA 95113-2418

Re: DISCOVER BANK v. CARLOS PEREZ
Case #: 110CV172770
Our File# 57314

Dear Sir/Madam,

Find enclosed Response to Special Interrogatories, Set number One and Response to Request for Production of Documents in the above referenced matter. Please note the executed verification will be sent under a separate cover.

If you need anything further or wish to discuss this matter, please feel free to call me at 1-800-864-1773.

Sincerely,



Alan C. Snyder, Esq.

Notice: This is a communication from a debt collector and an attempt to collect a debt. Any information obtained will be used for that purpose.



PROOF OF SERVICE

1 STATE OF CALIFORNIA)
 2 COUNTY OF ORANGE)
 _____)

3
 4 I am employed in the County of Orange, State of
 5 California. I am over the age of 18 and not a party to the
 6 within action; my business address is; 92 Argonaut #200, Aliso
 Viejo, CA 92656.

7 On August 26, 2010, I served the foregoing document
 8 described as **RESPONSE TO SPECIAL INTERROGATORIES, SET NUMBER ONE**
 9 on interested parties in this action by placing a true copy
 thereof enclosed in a sealed envelope and addressed as follows:


10
 11 FRED W. SCHWINN, ESQ.
 Consumer Law Center, Inc.
 12 12 South First Street, Ste. 1014
 San Jose, CA 95113-2418

Counsel for CARLOS PEREZ

13 I am "readily familiar" with the firm's practice of
 14 collection and processing correspondence for mailing. Under
 15 that practice it would have been deposited with U. S. postal
 16 service on that same day with postage herein fully prepaid at
 Irvine, California in the ordinary course of business. I am
 17 aware that on motion of the party served, service is presumed
 18 invalid if postal cancellation date or postage meter date is
 19 more than one day after date of deposit for mailing an
 20 affidavit.

21 I declare under penalty of perjury of the laws of the State
 of California that the foregoing is true and correct.

22 Executed on August 26, 2010, at Aliso Viejo, CA.

23 
 24 Alan C. Snyder
 25

PROOF OF SERVICE

1 STATE OF CALIFORNIA)
 2 COUNTY OF ORANGE)
 3 _____)

4 I am employed in the County of Orange, State of
 5 California. I am over the age of 18 and not a party to the
 6 within action; my business address is; 23411 Summerfield 59-F,
 7 Aliso Viejo, CA, 92656.

8 On August 26, 2010, I served the foregoing document
 9 described as **RESPONSE TO REQUEST FOR PRODUCTION OF DOCUMENTS,**
 10 **SET NUMBER ONE** on interested parties in this action by placing a
 11 true copy thereof enclosed in a sealed envelope and addressed as
 12 follows:

12 FRED W. SCHWINN, ESQ. Counsel for CARLOS PEREZ
 13 Consumer Law Center, Inc.
 14 12 South First Street, Ste. 1014
 15 San Jose, CA 95113-2418

16 I am "readily familiar" with the firm's practice of
 17 collection and processing correspondence for mailing. Under
 18 that practice it would have been deposited with U. S. postal
 19 service on that same day with postage herein fully prepaid at
 20 Irvine, California in the ordinary course of business. I am
 21 aware that on motion of the party served, service is presumed
 22 invalid if postal cancellation date or postage meter date is
 23 more than one day after date of deposit for mailing an
 24 affidavit.

25 I declare under penalty of perjury of the laws of the State
 of California that the foregoing is true and correct.

Executed on August 26, 2010, at Aliso Viejo, CA.


 Alan C. Snyder

Law Offices of Collins & Lamore
Attorneys At Law
92 Argonaut, #200
Aliso Viejo, CA 92656
949-581-9300; Fax# 480-287-8507

August 31, 2010

Personal & Confidential To:

CARLOS PEREZ
551 LOUMENA LN
SAN JOSE CA 95111

RE: DISCOVER BANK vs. CARLOS PEREZ
Our File# 57314; Ref #: 6011000951399975
Current Balance: 23609.32

CARLOS PEREZ,

Find enclosed one or more subpoenas that we intend to serve upon the named witness. We are sending you this notice as required pursuant to CA Civil Code of Procedure.

If you have any questions or wish to discuss this matter, please feel free to give me a call toll free at 1-800-864-1773 or email me at remoffsup@collinslamorelaw.com.

Make check or money order made payable to "Collins & Lamore Trust account" addressed to 92 Argonaut, Suite 200, Aliso Viejo, CA 92656.

Sincerely,

151
Michael W. Collins, Esq.
CSB# 197829

**THIS IS A COMMUNICATION FROM A DEBT COLLECTOR AND AN ATTEMPT TO
COLLECT A DEBT. ANY INFORMATION
OBTAINED WILL BE USED FOR THAT PURPOSE.**



Law Offices of Collins and Lamore
92 Argonaut, Suite 200
Aliso Viejo, CA 92656

Personal & Confidential To:
CARLOS PEREZ
551 LOUMENA LN
SAN JOSE CA 95111

800185.05



\$0.44 0
US POSTAGE
FIRST-CLASS
062S0007451763
92653